

**Marblehead Conservation Commission  
Minutes September 8, 2011**

Meeting was held in the lower conference room at the Mary A. Alley Building, 7 Widger Road

Meeting was called to order at 7:00 PM

Present were: Commission Members Brian LeClair, Walt Haug, Fred Sullivan, Ken Fisher and Deb Payson. Also present was Willy Lanphear, Conservation Administrator.

The hearings were conducted under the Massachusetts Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw.

Note: The commission currently has seven members. Per the MACC Handbook, section 4.1.2, most lawyers agree that a quorum is "...a majority of commissioners currently serving". The quorum for this meeting is therefore four members.

**Approve Minutes:** The minutes of August 11, 2011 were approved by all members.

**Proposed Gift of Land:** Mr. Herb Kolodny, 74 Brook Hill Road, Hamden, CT 06514 (tel: 203 288-5472) has offered a parcel of land in Marblehead on Wilson Road (no number) to the Conservation Commission. The parcel is ca. 20,000 sq. ft. (parcel no. 11 20-0) and has an annual real estate tax of \$208.00. It is unbuildable as most of it is part of Oliver's Pond. W. Lanphear has researched its title but this effort needs further investigation. This parcel will give the Town direct access to the pond. All members voted "to recommend to the Marblehead Board of Selectmen to accept this parcel pending appropriate research regarding any possible liability issues." The chair will contact Mr. Kolodny and inform him that the commission has recommended to the Board of Selectmen acceptance of their offer pending review by the Town and acceptance at Town Meeting.

**DEP Ruling re 40-986, Stutz – Eustis Road:** The chair advised the commission that the DEP has ruled on this matter, has fined the violator and required restoration of the altered wetlands. The commission will receive a copy of the Final Restoration Plan prior to implementation of the plan, a post construction completion report and copies of each annual monitoring report in the ensuing five years.

**Emergency Certificate: Trautman 3 Kenneth Road:** The DEP issued a letter dated August 30, 2011 to M/M Trautman revoking the Emergency Certificate issued by the commission, required all work to be stopped and an NOI to be filed.

**40-1029 15 SPRAY AVENUE GROOM**

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Appeared: P. Lynch, atty., P. Ogren of Hayes Engineering, R. Fitzgerald of Childs Engineering and D. Groom of Groom Construction

Reference: Letter from Childs Engineering Corporation, dated September 2, 2011 to David Groom from Richard FitzGerald. Letter from Bourne Consulting Engineering, dated September 6, 2011 to Dolores Selenkow from Russell Titmuss.

Control Drawing: Plan for NOI, Showing Proposed Additions & Grading, 15 Spray Avenue, dated December 15, 2010, latest revision dated August 22, 2011 (stamped by P. Ogren August 29, 2011). Sketch "15 Spray Ave., Proposed Section C-C and Section D-D", dated 09/07/11, Sheet SK-01, prepared by Childs Engineering.

(Note: This sketch will be incorporated into the details of the Control Drawing.)

This was a continuance from 03/10/2011, 04/14/2011, 05/12/2011, 06/09/20, 07/14/2011 and 08/11/2011. For 40-1029, the major topic of discussion is the design of the added seawall height at the south end of the property and its impact on the neighboring property. Both the Childs Engineering letter and the Bourne Consulting letter express confidence in the latest design of the proposed seawall at the south end of the property and its ability to prevent any additional wave impact on the neighboring property over and above that which currently occurs. W. Walsh-Rogalski expressed concern about overwash/overtopping of storm waves onto the lawn behind the proposed seawall. The commission determined this will not be a concern since any amount of erosion will not affect the stability of the proposed seawall and said erosion will not introduce any significant amount of material into the resource water.

Note that the "Dowel Detail" shown on sheet 3 of 3 accompanying the Control Drawing is no longer applicable. No buttresses will remain and no flowable material is to be placed in the cavity behind the new concrete wall under the proposed patio.

All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

### **Special Conditions:**

#### **Pre-construction:**

XX. Before any work is started under this OOC, a final, revised Control Drawing incorporating the Sketch "15 Spray Ave., Proposed Section C-C and Section D-D", dated 09/07/11, Sheet SK-01, prepared by Childs Engineering shall be submitted to the commission for approval.

XX. A landscape shall be submitted to the commission for approval before any landscape work is started.

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties or streets.

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

35. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

36. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

**Post-construction/in perpetuity:**

40. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

41. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

47. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit [www.mnla.com](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

50. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written

statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

51. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an “as built” drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment “C” for “Schedule of Fines”.

#### **40-1025 15 SPRAY AVENUE GROOM**

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Appeared: P. Lynch, atty., P. Ogren of Hayes Engineering, R. Fitzgerald of Childs Engineering and D. Groom of Groom Construction

Reference: Letter from Childs Engineering Corporation, dated September 8, 2011 to David Groom from Richard FitzGerald.

Control Drawing: Plan for NOI, Showing Proposed Additions & Grading, 15 Spray Avenue, dated December 15, 2010, latest revision dated August 22, 2011 (stamped by P. Ogren August 29, 2011). Sketch “Revise Patio and add Trellis”, Rev. Sept. 2, 2011, by Grazado Velleco Architects. (Note: This sketch will be incorporated into the details of the Control Drawing.)

The commission voted at the August meeting to review the requested changes as an amendment to the NOI. The changes include the removal of the existing concrete seawall sitting on top of the granite seawall and replacing it with a new re-enforced concrete seawall. Details of this new seawall have yet to be shown on the Control Drawing. A further change is to install either pipe columns (see the referenced Childs letter) or a six (6”) inch concrete wall to support the proposed eight (8”) inch concrete plank forming the floor of the proposed patio. No flowable material or any new backfill behind the new re-enforced concrete seawall for the patio will be introduced. This addresses a major concern of the commission regarding any added weight that might introduce extra stresses on the granite block seawall. The referenced letter from Childs states that this new design “... will not affect the wall’s stability”. This satisfies the special condition #29 in the original OOC. Another change is the manner for stabilizing the footing of the granite block seawall. Per the referenced Childs letter this includes grouting of joints, re-facing a previous repair with concrete and constructing a toe structure along 50 feet of the seawall. The commission voted 4 in favor, one opposed (F. Sullivan) to close the hearing. The commission

voted 4 in favor, one opposed to issue an amended OOC with the additional following special conditions.

XX. Before any work is started on the seawall, a revised site plan will be submitted for approval by the commission. This revised plan will show the construction details of the new proposed re-inforced concrete seawall and the manner of supporting the proposed eight inch (8") concrete plank forming the floor of the proposed patio.

XX. Before any work is started on the footing of the granite block seawall, a description of how materials and equipment will be contained from entering the resource waters will be submitted to the commission for approval.

#### **40-1050 19 NEPTUNE ROAD WHEELER**

Resource Areas: Coastal Beach and Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Sketches and photos supplied with the NOI

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and Mr. Wheeler  
The DEP file number was received. This work was started without a permit and fines will be levied accordingly. The footprint of the proposed seawall will be 3-6 inches further seaward than the existing seawall. The height will not change. The footprint of the proposed ramp will be the same as the existing ramp. There will be no change in wave reflection. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

#### **Pre-construction:**

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

#### **During construction:**

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its

way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

35. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

36. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

37. The construction of the pier/dock and any structure over the water permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure. All piers/docks shall conform to the requirements of Chapter 91.

**Post-construction/in perpetuity:**

40. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

41. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

47. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit [www.mnla.com](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

51. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

## **40-1051 16 REDSTONE LANE MOORE**

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Sketch Plan, Showing Patio Repair, #16 Redstone Lane, dated August 1, 2011, latest revision August 23, 2011, prepared by Hayes Engineering, Inc.

Appeared: Ted Moore and Bob Gargano

B. LeClair recused himself. After discussion and realizing the added seawall height of two feet on the patio will not affect wave deflection or impact neighboring properties, four members (one abstaining) voted to close this hearing. Four members (one abstaining) voted to issue an OOC with the following special conditions.

### **Pre-construction:**

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

xx. Prior to the start of any work, the applicant will submit to the commission a copy of a valid Chapter 91 license for this site.

### **During construction:**

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

35. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

36. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

37. The construction of the pier/dock and any structure over the water permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure. All piers/docks shall conform to the requirements of Chapter 91.

**Post-construction/in perpetuity:**

40. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

41. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

50. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

51. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

**40-1052 14 INDIANHEAD CIRCLE BOOTH**

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution



Control Drawing: Chris & Cheryl Booth, 14 Indianhead Circle, dated 08/17/2011, prepared by Griffin Engineering Group, LLC, (sheets C-1 and C-2)

Reference: Memo (undated) from Gerald Friedman of 10 Indianhead Circle

Appeared: R. Griffin of Griffin Engineering and M/M Booth

Griffin said the new pier has the same footprint as the previous pier. One issue that was not resolved concerned the manner of anchoring the floats and how float stops will be constructed to prevent the floats from bottoming. A further issue concerned the total length and location of the existing seawalls that will be repaired/replaced. Another issue concerned the two large pine trees abutting 10 Indianhead Circle. Friedman said they are vital in proving a dense root system which stabilizes the coastal bank and claimed their removal will be detrimental in this regard. Friedman said he has no objection to the trees and had years ago signed a liability waiver with the previous owner and will do likewise with M/M Booth. The Booths agreed to this and the trees will not be removed. All members voted to close this hearing. All Members voted to issue an OOC with the following special conditions.

**Special Conditions:**

**Pre-construction:**

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties or streets.

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

35. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

36. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

37. The construction of the pier/dock and any structure over the water permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure. All piers/docks will conform to the requirements of Chapter 91.

38. Any pressure-treated wood proposed to be used in the construction of a structure for land-based use shall be arsenic-free. Any pressure-treated wood proposed to be used in the construction of a structure for salt water contact shall be treated with Chromated Copper Arsenate (CCA) or other preservative approved by the EPA and/or the MADEP which is less polluting and harmful to the salt water and its environment.

39. All piers, docks and floats must follow the guidelines established in the document, "Small Docks and Piers – A Guide to Permitting Small Pile-Supported Docks and Piers" dated November 2003. Float stops are permitted provided they meet the aforementioned guidelines.

**Post-construction/in perpetuity:**

40. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

41. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

43. All gangways, docks or other items not permanently secured to the earth shall be stored during the "off season" (late fall, winter, early spring) so as to prevent them from causing any damage to other structures or resource area. This condition shall survive this order.

44. All gangways, docks or other items not permanently secured to the earth shall be properly secured and/or removed in the event of a major storm so as to prevent them from causing any damage to other structures or to the resource area. This condition shall survive this order.

45. All floats/docks will be so constructed so as not to bottom out (rest) on the ocean floor at low tides. This condition shall survive this order.

47. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit [www.mnla.com](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

48. Minor maintenance repairs to the superstructure only of the pier are allowed as a surviving condition of this order. Minor maintenance repairs are, typically, replacement of occasional deck boards, sections of hand rails, etc. Complete new decking, complete new hand rails or other such large repairs require an NOI. Minor maintenance repairs do not apply to the main support structure (stringers, bents, etc.) and do require an NOI. This condition shall survive this order.

50. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

51. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an “as built” drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment “C” for “Schedule of Fines”.

#### **RDA 18 GREGORY STREET MORELAND**

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Plan View, Sid & Desiree Moreland, dated 08/01/2011

Appeared: Mr. Moreland

This application involved adding a dormer and enclosing a second story porch. The property sits directly on the harbor. Due to the amount of construction and the proximity to the ocean, the commission agreed that an RDA was insufficient. The commission therefore voted (four “yes”, one “no”) to close the hearing and to issue a positive DOA. The applicant was informed to submit an NOI.

#### **40-1053 151 GREEN STREET MULDOON**

Resource Area: Riverfront Area, BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Green Street Condominiums, dated May 3, 2011, latest revision August 15, 2011 prepared by RIM Engineering

Reference: Stormwater Management for Green Street Condominiums, prepared by RIM Engineering, dated August 16, 2011

Appeared: P. Lynch, atty., R. Maloon of RIM Engineering and B. Holmes of Environmental Consulting & Restoration

The first issue raised by the commission was the definition of the stream, intermittent vs. perennial. The applicant had defined the stream as intermittent because it was not listed on the current USGS Map. The commission referred to 310 CMR 10.58 (2) (a-d) and asked the applicant to review the status again. One member of the commission, who has lived in Marblehead all his life, said per his personal observation, he has never seen this stream dry. The commission also pointed out that this stream is part of the stream commonly referred to as Babbling Brook and said brook flows throughout the year into the ocean at Grace Oliver Beach.

The commission also reminded the applicant that a Land Disturbance Permit is required for this site.

A further issue raised by the commission referred to the amount of replicated wetland proposed by the applicant. Per section 5.2 of the Marblehead Bylaw regulations, a 2:1 replication is advised. Maloon agreed there appeared to be available land on the site to enlarge the replication and he will revisit this matter with the applicant. A site visit was scheduled for Saturday, October 8, 2011 at 9:00 AM. With the consent of the applicant, all members voted to continue this hearing to October 13, 2011.

#### **RDA 2 DOCK LEDGE WAY FIN**

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Site Plan for Proposed Patio, 2 Dock Ledge Way, dated August 15, 2011

Appeared: Mr. Fin

This area is essentially all ledge. There is a small area of grass (200 sq. ft.) which the applicant wishes to remove and replace with pavers (or the like). Removing the grass will eliminate fertilizers and the small additional hard surface will not significantly increase any storm runoff or cause any erosion. All members voted to close this hearing. All members voted to issue a negative DOA.

#### **40-1054 32 FOSTER STREET VAN OTERLOO**

Resource Area: Coastal Beach and Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Site Plan Details, Repair/Re-pointing Existing Seawall & Stone Steps at 32 Foster Street, dated August 18, 2011, prepared by Patrowicz Land Development Engineering

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

After discussion, all members of the commission voted to close this hearing. All members voted to issue an OOC with the following special conditions.

**Pre-construction:**

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

**During construction:**

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

35. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations. All construction debris (removed mortar, etc.) will be contained to prevent any such material from entering the resource waters.

36. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

xx. A tarp will be laid down at the base of the seawall during all repair work to capture all construction debris. The tarp will be on the seaward side of the seawall. The tarp will be rolled up and dumped into a disposal trailer as required throughout the work day and will be removed at the end of each work day.

**Post-construction/in perpetuity:**

40. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

41. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

47. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit [www.mnla.com](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

50. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

51. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an “as built” drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment “C” for “Schedule of Fines”.

## **RDA 1 DOCK LEDGE WAY PICARIELLO**

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Site Plan for 1Dock Ledge Way, dated August 12, 2011

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

After review all members voted to close this hearing. All members voted to issue a negative DOA with the one condition as follows.

All construction debris (removed shingles, wood, grouting, etc.) will be contained and removed everyday to prevent any such material from entering the resource waters. If this material is contained in a dumpster, the dumpster must have a cover and be closed when not in use.

## **40-1055 STONY BROOK ROAD M’HD BOARD OF HEALTH**

Resource Areas: Riverfront Area

Interests of the WPA and Bylaw: Ground Water Supply, Flood Control, Protection of Wildlife Habitat and Prevention of Pollution,

Control Drawing: "PHASE IV REMEDY IMPLEMENTATION PLAN, STONY BROOK ROAD CUL-DE-SAC" dated August 2011, prepared by Kleinfelder/SEA (11 sheets including cover sheet).

Appeared: W. Attridge, Director of Public Health; L. Mead, Town Counsel; S. Wright, R. Kenneally and R. Quateman of Kleinfelder

Mead gave a brief overview of this project. It was agreed this project can proceed under 310 CMR 10.24 (7) c (6) and is exempt from the Stormwater Management and Erosion Control Bylaw 195 per section 195-4 C (6). All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

**Pre-construction:**

28. This project involves the disturbance of 40,000 square feet or more of land but is exempt via Bylaw Chapter 195, section 195-4 C (6).

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties or streets.

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

35. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations. All construction debris (removed mortar, etc.) will be contained to prevent any such material from entering the resource waters.

36. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

**Post-construction/in perpetuity:**

50. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

51. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an “as built” drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment “C” for “Schedule of Fines”.

**Old/New Business:**

**Sign Documents:** All documents per the agenda were signed.

**Changes to NOI: 40-1032 24 Foster Street McKernan** The requested changes are per Revised Site Plan, #24 Foster Street, dated March 28, 2011, latest revision September 8, 2011, prepared by Patrowicz Land Development Engineering. The commission voted that the proposed changes are within the overall scope of the original plan and do not require an amendment.

The meeting was adjourned at 11:00 PM.